

As for claim 6 in which the examiner asserts that she fails to understand what structure is "upright", because she "interprets upright as being an adjective that describes the position of an element", applicant respectfully submits as an exhibit to this amendment the definition of "upright" by the American Heritage College Dictionary, 3rd Edition. Note that the word "upright", in addition to being an adjective, could also be used as a noun and is defined as: "1. A perpendicular position; vertically. 2. Something, such as a goal post, that stands upright." In view of the accepted use of the word upright as a noun, the examiner's rejection of claim 6 is believed to be without merit and should be withdrawn.

Claims 1-6 were rejected under 35 U.S.C. 102(b) as being anticipated by Hollister U.S. patent 5,649,622. According to the examiner, "Hollister discloses a safety device (2) usable with a vial, said vial having mounted to one of its ends a hub (12) from which a needle (14) extends, said safety device comprising a collar, a neck member, a housing (6), and a latch member ..." (Underlines added.)

Applicant respectfully submits that the examiner has erroneously interpreted Hollister. This is clear insofar as Hollister does not disclose any safety device that is to be used with a vial. Moreover, Hollister does not disclose a collar that is mountable with any vial. Further, Hollister does not disclose a latch member extending from a neck in a direction towards the center of the collar, as defined in claim 1. In fact, there is nothing in Hollister that suggests any vial or any neck member that has a latch member configured as per recited in claim 1. Nor is there any disclosure in Hollister that his collar is mountable to a vial. Indeed, Hollister discloses, as best shown in Fig. 1, a safety needle protection package (cartridge) 2 that has a base 4 to which a housing 6 is hingedly attached by way of a living hinge. Base 4 has an end portion 10 for receiving a needle assembly. Base 4 further has another end portion that mates with a syringe. (Column 4, lines 6-20) Clearly, the base disclosed in Hollister (see Figs. 2A and 2B) is not a collar. Nor could it be argued that a syringe is a vial. Further, there is no

disclosure in Hollister that the base is to be slidably matable about the syringe. It is respectfully submitted therefore that Hollister does not anticipate the claimed invention.

In view of the foregoing, the examiner is respectfully requested to reconsider the case and allow all of the pending claims.

Respectfully submitted,



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**VERSION TO SHOW MARKINGS TO SHOW CHANGES MADE**

**Attachment Specification Portions Pursuant to 37 C.F.R. 1.121(b)(1)(iii)**

Please amend the specification as follows:

Page 6, first full paragraph:

Neck member 12, molded or fabricated to have an elastic characteristic, is a flexible upright that extends from collar 12 [extends] along a predetermined axis substantially parallel to the longitudinal axis of body 8. Unless biased by an external force, neck member 12 would maintain its molded position. Thus, were neck member 12 biased by an external force, once that force is removed, being flexible, it will spring back to its predisposed original position.

Page 6, last paragraph bridging to page 7:

The interrelationship between safety device 2 and vial 10, in particular the mating of device 2 to vial 10, is best illustrated in Figs. 7 and 8. To get to its final position with respect to vial body 8 as shown in Figs 7 and 8, collar 4 of device 2 is first placed at end [30] 31, i.e., the glass end, of vial body 8. Collar 4 is then matingly fitted to vial body 8 and matably slid along body 8 towards hub 28 until it is moved to a position adjacent hub 28 as shown in Figs. 7 and 8. Given that device 2 is made of a plastic material and neck member 12 is formulated to have an elastic characteristic that makes it flexible, as latch member 20 comes into contact with body 8, neck member 12 is flexibly pushed away from body 8. As collar 4 is moved towards hub 28, latch member 20 maintains its guided contact with body 8. When latch member 20 comes into contact with the side surface of hub 28, it causes neck member 12 to flex even further away, so as to allow collar 4 to continually be pushed towards hub 28.

Page 7, first full paragraph:

At the location as shown in Figs. 7 and 8 where collar 4 is positioned adjacent to hub 28, given its elastic property, with lip 22 of latch member 20 being positioned at shoulder [32] 33 of hub 28, neck member 12 would snappingly flex back to its original position to thereby cause latch member 20 to coact with shoulder [32] 33 of hub 28 to thereby latch lip 22 onto shoulder [32] 33. As a consequence, collar 4 is fixedly coupled to vial body 8 and hub 28 thereof. And absent a concerted effort by the user to push neck member 12 away from hub 28, collar 4 could not be removed from body 8.

Page 8, first paragraph:

Once collar 4 is positioned as shown in Figs. 7 and 8, to prevent a contaminated needle such as for example needle 26 from being further exposed to the environment,

the user only needs to pivot housing 14 in the direction as shown by directional arrow 18. Once housing 14 is moved to a position in substantial alignment along the longitudinal axis of body 8 of vial 10, the tips [32] 35 of hooks 30 and [32] 35 would first bias needle 26 and then lockingly grip the same, to thereby fixedly retain needle 26 within housing 14.

Page 9, last paragraph:

Fig. 11 illustrates the interrelationship of a vial fitted with the safety device of the instant invention and a holder applicator such as for example a [Carpujet] Carpujet applicator. As shown, holder 46 has an elongated housing 48 having a cavity 50. The side of housing 48 facing the reader is opened to the environment and an aperture 52 is formed at its opposite side. At the tip of housing 48 there is an opening or channel 54. At its other end housing 48 is mounted to a finger grip base 56. A bore (not shown) extends through base 56.

**Attachment Claims Pursuant to 37 C.F.R. 1.121(c)(1)(ii)**

Please amend claim 1 and 5 as follows:

1. (Amended) Safety device usable with a vial, said vial having mounted to one of its ends a hub from which a needle extends, said safety device comprising:
  - a collar slidably matable about said vial;
  - a neck member extending from said collar;
  - a housing pivotably connected to [the] end of said neck member away from said collar; and
  - a latch member extending from said neck member in a direction towards [the] center of said collar, said latch member coacting with said hub to prevent said collar from being removed from said vial once said collar has been mated about said vial and moved to be substantially adjacent said hub.
5. (Amended) Safety device of claim 4, wherein said locking means comprises a hook integrated to [the] interior of said housing for holding said needle fixed relative to said housing once said housing is pivoted to said alignment position and said needle biases and then is held by said hook.

Please add new claims 22-27 as follows:

22. (Newly added) Safety device, comprising:
  - a collar;
  - a neck extending from said collar;
  - a housing pivotably connected to the end of said neck away from said collar; and
  - a latch member extending from said neck in a direction towards the center of said collar;

wherein when said collar is placed about a vial and moved toward a hub of said vial until adjacent to one end of said hub, said latch member is latched onto another end of said hub.

23. (Newly added) Safety device of claim 22, wherein said latch member is integrated to said neck and flexible relative to said collar.

24. (Newly added) Safety device of claim 21, wherein said housing comprises at least one integral hook for lockingly gripping a needle extending from said hub when said housing is pivoted to a position in alignment along longitudinal axis of said vial.

25. (Newly added) Safety device, comprising: a collar, a flexible neck extending from said collar, a housing pivotably connected to the end of said neck away from said collar, and a latch member extending from said neck in a direction towards the center of said collar, said latch member continuously biases against body of a vial when said collar is placed about said vial and moved toward one end of a hub of said vial, said latch member further biases against said hub as said collar is moved further toward said one end of said hub, said latch member latching onto another end of said hub when said collar is moved adjacent to said one end of said hub.

26. (Newly added) Safety device of claim 25, wherein said latch member is integrated to said neck and flexible relative to said collar.

27. (Newly added) Safety device of claim 25, wherein said housing comprises at least one integral hook for lockingly gripping a needle extending from said hub when said housing is pivoted to a position in alignment along longitudinal axis of said vial.

# THE AMERICAN HERITAGE<sup>®</sup> COLLEGE DICTIONARY

THIRD EDITION

Best Available Copy



HOUGHTON MIFFLIN COMPANY

Boston • New York

Exhibit

**up-shift** (ʊp/ʃiɪt/) *intr. v.* -shift-ed, -shift-ing, -shifts. To shift a motor vehicle into a higher gear. — **up/shift'** *n.*

**up-shot** (ʊp/ʃɒt/) *n.* The final result; the outcome. See *Syns at effect*. [Earlier *upshot*, the last shot in an archery contest.]

**up-side** (ʊp/ˈsaɪd/) *n.* 1. The upper side or portion. 2. An advantageous aspect. 3. An upward tendency, as in business profitability.

**upside down** *adv.* 1. So that the upper or right side is down: *turned upside down*. 2. In great disorder. [Alteration of *ME up so down*, up as if down: *up*, *up*; see *ur + so*, as if; see *so* 1 + *down*, down; see *down* 1.] — **up'side-down'** (ʊp/ˈsaɪd-ɒn/) *adj.*

**upside-down cake** *n.* A single-layer cake baked with sliced fruit at the bottom, then served with the fruit side up.

**up-si-lon** (ʊp/ˈsɪ-lɒn/, ˈsɒp/ɪ-) *n.* The 20th letter of the Greek alphabet. [Lgk. *υ* *psilon*, simple *υ* (< the fact that *υ* was given the same pronunciation in Lgk. as *υ* < *psilon*, neut. of *psilos*, simple (written with one letter as opposed to two)).]

**up-spring** (ʊp-/sprɪŋ/) *intr. v.* -sprang (-sprɪŋ/) or -sprung (-sprɪŋ/), -sprung, -spring-ing, -springs. 1. To spring up, as from the soil. 2. To come into being: arise.

**up-stage** (ʊp/ˈstæɪ/) *adv.* Toward, at, or on the rear part of a stage. — *adj.* 1. Of or relating to the rear part of a stage. 2. *Informal*. Haughty; aloof. — *n.* (ʊp/ˈstæɪ/). The rear part of a stage, away from the audience. — *tr. v.* (ʊp-/stæɪ/) -staged, -stag-ing, -stages. 1. To distract attention from [another performer] by moving upstage, thus forcing the other performer to face away from the audience. 2. To divert attention or praise from. 3. To treat haughtily. — **up-stage'er** *n.*

**up-stairs** (ʊp/ˈstɜːr/) *adv.* 1. Up the stairs: *raced upstairs*. 2. To or on a higher floor: *went upstairs*. 3. To or at a higher level: *was promoted upstairs*. — *adj.* (ʊp/ˈstɜːr/). Of or located on an upper floor. — *n.* (ʊp/ˈstɜːr/) (*used with* loc. *v.*) The part of a building above the ground floor.

**up-stand-ing** (ʊp-/stæn-/dɪŋ, ʊp/ˈstæn-/) *adj.* 1. Standing erect or upright. 2. Morally upright. — **up-stand-ing-ness** *n.*

**up-start** (ʊp/ˈstɑːrt/) *n.* A person of humble origin who attains sudden wealth, power, or importance, esp. one made immediate or presumptuous by the change; a parvenu. — *adj.* 1. Suddenly raised to a position of consequence. 2. Self-important; presumptuous. — *intr. v.* (ʊp-/stɑːrt/) -start-ed, -start-ing, -starts. To spring or start up suddenly.

**up-state** (ʊp/ˈstɑːt/) *n.* The northerly section of a state in the United States. — *adv. & adj.* To, from, or in the northerly section of a state. — **up/stat'er** *n.*

**up-stream** (ʊp/ˈstriːm/) *adv. & adj.* In the direction opposite to the current of a stream.

**up-stroke** (ʊp/ˈstrɒk/) *n.* An upward stroke, as of a brush.

**up-surge** (ʊp-/sɜːr/) *intr. v.* -surged, -surg-ing, -surges. To surge up. — *n.* (ʊp/ˈsɜːr/). A rapid or abrupt rise.

**up-sweep** (ʊp/ˈswɛp/) *n.* 1. An upward curve or sweep. 2. A hairdo that is smoothed upward in the back and piled on top of the head. — *tr. v.* -swept (-swɛpt/), -sweep-ing, -sweeps. To brush, curve, or sweep upward.

**up-swing** (ʊp/ˈswɪŋ/) *n.* 1. An upward swing or trend. 2. An increase, as in movement or business activity.

**up-take** (ʊp/ˈtæk/) *n.* 1. A passage for drawing up smoke or air. 2. Understanding; comprehension: *quick on the uptake*.

**up-tempo** *po* also **up-tem-po** (ʊp/ˈtɛm/po/) *Mus. n., pl. -pos*. A fast or lively tempo, as in jazz. — **up-tem-po** *adj.*

**up-throw** (ʊp/ˈθroʊ/) *n.* 1. A throwing upward. 2. *Geol.* An upward displacement of rock on one side of a fault.

**up-tick** (ʊp/ˈtɪk/) *n.* 1. An increase, esp. a small or incremental one. 2. A transaction in a stock market security above the price of the previous transaction. [< the indication of a rise in price of a stock by a plus sign on boards above stock market stations.]

**up-tight** (ʊp/ˈtɪr/) *adj. Slang*. 1. Tense; nervous. 2. Financially pressed; destitute. 3. Outraged; angry. 4. Rigidly conventional, as in opinions. — **up/tight'ness** *n.*

**up-time** (ʊp/ˈtɪm/) *n.* The time during which a device, such as a computer, is functioning or available for use.

**up-to-date** (ʊp/ˈtə-daɪ/) *adj.* 1. Informed of or reflecting the latest information or changes. 2. Being in accord with the latest ideas, improvements, or styles. — **up-/to-date'ness** *n.*

**up-town** (ʊp/ˈtaʊn/) *n.* The upper part of a town or city. — *adv.* (ʊp/ˈtaʊn/). To, toward, or in the upper part of a town or city. — **up/town'er** *n.*

**up-trend** (ʊp/ˈtrɛnd/) *n.* An upward trend; an upturn.

**up-turn** (ʊp/ˈtɜːrn/, ʊp-/tɜːrn/) *v.* -turned, -turn-ing, -turns. — *tr.* 1. To turn up or over: *upturn the soil*. 2. To upset; overturn. 3. To direct upward. — *intr.* To turn over or up. — *n.* (ʊp/ˈtɜːrn/). An upward movement, curve, or trend.

**up-ward** (ʊp/ˈwɜːd) *adj.* 1. In, to, or toward a higher place, level, or position: *flying upward*. 2. Toward a higher position in a hierarchy or on a socioeconomic scale. 3. To or toward the source, origin, or interior. 4. Toward the head or upper parts. 5. Toward a higher amount, degree, or rank: *Prices soared upward*. 6. Toward a later time or age: *from adolescence upward*. — *adj.* Directed toward a higher place or position. — *idiom*. **upward (or upwards) of**. More than; in excess of. — **up-ward-ly** *adv.* — **up/wards** *adv.*

â pat	oi boy
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â father	oō boot
ê pet	û cut
ê be	ûr urge
î pit	th thin
î pie	th this
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ô pot	zh vision
ô toe	a about
ô paw	item

Stress marks:  
' (primary);  
' (secondary), as in  
dictionary (dik 'shə-nēr'ən)